

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JOHN DOE, on behalf of himself and )  
others similarly situated, )  
  )  
  )  
Plaintiffs,                         )                                      8:18CV422  
  )  
  )  
v.                                    )  
  )  
DOUG PETERSON, Attorney        )                                      MEMORANDUM AND ORDER  
General of the State of Nebraska, in )  
his official capacity, and JOHN A. )  
BOLDUC, Superintendent of Law )  
Enforcement and Public Safety for )  
the Nebraska State Patrol, in his )  
official capacity,                    )  
  )  
Defendants.                         )  
\_\_\_\_\_ )

I heard the parties through their counsel today on the question of whether a temporary restraining order should be issued. Primarily to maintain the status quo so that this matter may be fully and carefully considered, I will issue the requested temporary restraining order.

I find that the balance of the harms tips slightly in favor of Plaintiffs at this point in time but I express no opinion on the merits. The Defendants desire to be more fully heard and understand that a temporary restraining order is a practical necessity if a wise decision is to be reached. That said, the Defendants do not consent to the entry of a temporary restraining order. Defendants do, however, consent, pursuant to Federal Rule of Civil Procedure 65(b)(2), that any temporary restraining order may remain effective until the issuance of a decision on the preliminary injunction request.

I also consulted with counsel about scheduling and briefing for the preliminary injunction hearing (which may, upon agreement of counsel, be consolidated with a trial on the merits). We arrived at agreement on such matters. Thanking counsel for their professionalism and civility,

IT IS ORDERED that:

1. Filing no. 2, the Emergency Motion for Temporary Restraining Order or Preliminary Injunction, is granted in part and in part held in abeyance consistent with this Order.
2. The Defendants, and all their agents, servants, employees (including County Attorneys) are temporarily restrained from enforcing Neb. Rev. Stat. § 29-4003(1)(a)(iv) and Neb. Rev. Stat. § 29-4003 (1)(b)(iii). This temporary restraining order shall remain effective until the issuance of a decision on the preliminary injunction request.
3. A hearing on the preliminary injunction request (which may, upon agreement of counsel, be consolidated with a trial on the merits) is set for Monday, October 15, 2018, starting at 1:00 P.M. and concluding no later than 5:00 P.M. That hearing record may consist of stipulated facts, affidavits, witness testimony, or evidentiary exhibits *unless* counsel object and request a status conference as provided in paragraph 5 of this Order no later than Thursday, October 4, 2018.<sup>1</sup>

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<sup>1</sup> I reserve the right to exclude particular items of proffered evidence should I conclude at the preliminary injunction hearing that it is untrustworthy, lacks foundation or is not relevant.

4. Initial briefs shall be jointly submitted no later than the close of business on Friday, September 28, 2018. Reply briefs shall be jointly submitted no later than the close of business on Friday, October 5, 2018.
5. Counsel may request a status conference with me prior to the hearing on the preliminary injunction by contacting my judicial assistant, Kris Leininger, at 402.437.1640.
6. I will handle all matters regarding this case rather than Magistrate Judge Zwart unless and until I enter an order otherwise.

DATED this 11<sup>th</sup> day of September, 2018.

BY THE COURT:

*s/ Richard G. Kopf*  
Senior United States District Judge